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7 PCC No.: 35932
8 ASB NO.: 6253

9 *Attorney for Plaintiffs*

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

11 IN AND FOR THE COUNTY OF COCHISE

12 DANNY R. HATCH, JR. and DENICE R.
13 HATCH, husband and wife,

14 Plaintiffs,

15 vs.

16 RONALD J. KLUMP and JANE DOE
17 KLUMP, husband and wife, ROY J. KLUMP
18 and JANE DOE KLUMP, husband and wife,
19 and DAYLA HEAP and JOHN DOE HEAP,
20 wife and husband,

21 Defendants

22 NOW COME the Plaintiffs, Danny R. Hatch, Jr., and Denice R. Hatch, husband and
23 wife, by and through their attorney, Carl D. Macpherson, and petition the court for a
24 Temporary Restraining Order without notice Pursuant to A.R.C.P. Rule 65 (d), which states
25 as follows:

26 Temporary Restraining order; notice; hearing; duration:

27 A temporary restraining order may be granted without written or oral notice
28 to the adverse party or that party's attorney only if (1) It clearly appears from specific facts
shown by affidavit or by the verified complaint that immediate and irreparable injury, loss
or damage will result to the applicant before the adverse party can be heard in opposition,
and (2) the applicants attorney certifies to the court in writing the efforts, if any, which have
been made to give the notice or the reasons supporting the claim that notice should not be
required....In case a temporary restraining order is granted without notice, the motion for
a preliminary injunction shall be set down for hearing at the earliest possible time and take

FILED

2014 FEB 21 AM 11:46

MARY ELLEN [Signature]
CLERK OF SUPERIOR COURT
DEPUTY

NO. **CV201400128**

EX PARTE MOTION FOR
TEMPORARY RESTRAINING
ORDER WITHOUT NOTICE

1 precedence of all matters except older matters of the same, and when the motion comes
2 on for hearing the party, the party who obtained the temporary restraining order shall
3 proceed with the application for a preliminary injunction....

4 Rule 65 (e), Security:

5 No restraining order or preliminary injunction shall issue except upon giving
6 of security by the applicant, in such amount as the court deems proper, for the payment
7 of such costs and damages as may be incurred or suffered by any party who is found to
8 have been wrongfully enjoined or restrained....

9 NOW COMES the Plaintiffs, by and through their counsel, and in support of her
10 petition for temporary restraining order alleges as follows:

11 1. The Plaintiffs are owners of real estate located in Cochise County, Arizona
12 commonly known as 3983 N. Shepard Road, Willcox, Arizona, 85644, being a parcel of
13 land consisting of 40.32 acres.

14 2. Plaintiffs are informed and believe that Roy J. Klump is the owner of a 300 acre
15 plus parcel of land located in Cochise County, directly south of the Plaintiff's above
16 described land, commonly known as 3840 N. Johnson Saddle Road, Willcox, Arizona,
17 85644.

18 3. Plaintiff's are informed and believe Ronald J. Klump, and Dayla Heap are tenants
19 on the above real property located at 3840 N. Johnson Saddle Road, Willcox, Arizona.

20 4. Your Plaintiff's purchased the above described parcel of land in August of 2003,
21 by warranty deed.

22 5. On the first day of February 1977, Continental Service Corporation as trustee
23 under Trust 9383, did convey an easement to construct, operate, and maintain utilities and
24 appurtenances for public utilities over the easterly 60 feet of the Plaintiff's described
25 property.

26 6. The above said easement stops at the southerly boundary of your Plaintiff's
27 property as set forth in document 1133, page 390, in the office of the County Recorder of
28 Cochise County Arizona, being the northerly boundary of the Klump parcel herein above

1 described.

2 7. Your Plaintiff's have openly notoriously, continuously, and exclusively used said
3 easement as a driveway for purposes of ingress and egress to their property since August
4 2003.

5 8. Plaintiff's grantor's did exclusively, openly, continuously, and notoriously use said
6 60 foot easement as a driveway for purposes of ingress and egress to the above described
7 40 acre parcel during their ownership for more than 11 years.

8 9. Plaintiff's are informed and believe the above Defendants began living on the
9 Klump 300 acre parcel approximately in 2010.

10 10. Plaintiff's aver that said Defendants used North Johnson Saddle Road as their
11 means of ingress and egress to their trailer on the 300 acre Klump parcel.

12 11. Beginning December 30, 2013, said Defendants have trespassed upon the
13 Plaintiff's driveway to gain access to their property over Plaintiff's vehement continuing
14 objections.

15 12. Defendants since December 30, 2013 have committed continuing and
16 irreparable damage to Plaintiff's property, including but not limited to, moving barb wire that
17 runs from the locked gate on their private driveway to the east pasture fence, dragged
18 Plaintiff's driveway breaking up the top thereof, placed a combination lock on Plaintiff's
19 gate to their residence at the end of said driveway, broken the fence post to the gate of the
20 Plaintiff's driveway, and have continuously left Plaintiff's gate open when using said
21 driveway.

22 13. Plaintiff's have always kept the gate at the end of said driveway locked, except
23 when ingressing and egressing from their residence.

24 14. Plaintiff's aver that the Defendants acts omissions and commissions above
25 described constitute intentional and continuing harassment.

26 15. Plaintiffs have been caused to incur substantial expenses including but not
27 limited to an additional lock to their gate, repair of the fence post of their gate, a security
28 camera, and driveway alarm to alert Plaintiffs when someone is unlawfully using their

1 driveway.

2 16. Plaintiffs have given to said Defendants both oral and written notice of unlawful
3 use of said driveway and requesting removal of Defendant's lock on their gate and demand
4 during use of said driveway that they immediately close said gate after ingress and egress.
5 A true and correct copy thereof, being attached hereto as Exhibit 1.

6 17. On January 29, 2014, Plaintiffs did send notice and demand for execution of a
7 Quit Claim Deed and \$5 to the Defendants regarding the above described private
8 driveway. As of the date hereof, Defendants have failed and refused to execute said Quit
9 Claim Deed.

10 18. On or about, February 13, 2014, Defendants did break the gate post to
11 Plaintiff's residence, the result thereof, did commit criminal damage to Plaintiff's property.

12 19. On not less than six separate occasions since January 1, 2014, the Cochise
13 County Sheriff's department have been called to subject property concerning the
14 Defendants acts, omission, and commissions regarding Plaintiff's driveway and property.

15 20. Plaintiffs aver that issuance of a temporary restraining order without notice
16 would not irreparably harm the Defendants as they have always had a means of ingress
17 and egress to their property via Johnson Saddle Road.

18 21. Plaintiffs aver the continuing, intentional harassment of the Defendants have
19 created substantial emotional distress to the Plaintiffs, which will continue unless
20 Defendants are restrained and enjoined from the use of said driveway described as North
21 Shepard Road.

22 NOW THEREFORE, Plaintiffs pray this Honorable Court enter Temporary
23 Restraining Order against the above Defendants, their officers, agents, servants, and
24 employees from:

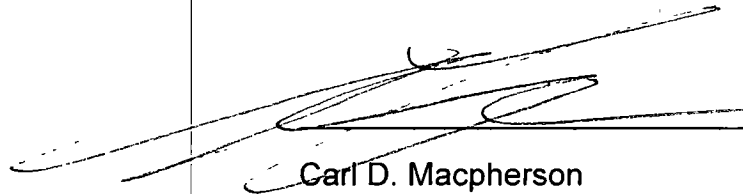
25 1. Entering and or using Plaintiff's driveway, being the easterly 60 feet of Plaintiff's
26 property, commonly known as North Shepard Road.

27 2. That a hearing be set as to why temporary restraining order should not become
28 a temporary injunction pending trial of this cause.

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3. For such other and further relief as the court deems equitable and in good conscience.

Respectfully submitted this _____ day of February, 2014.



Carl D. Macpherson
Attorney for Plaintiffs

VERIFICATION

STATE OF ARIZONA)
)
COUNTY OF PIMA)

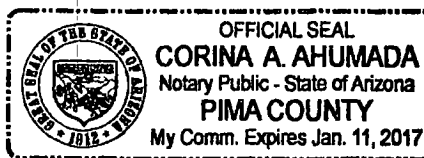
We, Dan and Denise Hatch, been first duly sworn under oath, state that we have read the foregoing petition for temporary restraining order and that all the facts contained are true and correct to the best of our knowledge, information and belief.

Date: 2/21/14

Dan Hatch
Dan Hatch
Denise Hatch
Denise Hatch

Subscribed and sworn to before me a Notary Public this 21 day of February, 2014 by Dan and Denise Hatch.

Corina A. Ahumada
Notary Public



Dan Hatch
PO Box 66
Willcox, AZ 85644

18 February 2014

Ronald Klump
3840 N. Johnson Saddle Road
PO Box 952
Willcox, AZ 85644

Per advice from my Attorney, Carl D. Macpherson

Ronald Klump, you are hereby notified that if you (or any individual(s) you give the combination for your lock to) do not close and lock my gate every time you pass through it, I will be taking your lock off from my gate.

Dan Hatch

If you have any questions, feel free to contact my Attorney

Law Offices
of

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CC: Law Offices of Carl Macpherson; Cochise County Sheriffs Department

EXHIBIT 1